

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BRANDON J. RUBIO,

CASE NO. C23-5435JLR-SKV

**Plaintiff,**

## ORDER

V.

# MASON COUNTY, et al.,

## Defendants.

Before the court are (1) United States Magistrate Judge S. Kate Vaughan's  
umber 11, 2023 report and recommendation (R&R (Dkt. # 12)) and (2) Plaintiff  
on J. Rubio's objections thereto (Obj. (Dkt. # 14)). In her report and  
mendation, Magistrate Judge Vaughan recommended that the court dismiss Mr.  
's complaint without prejudice for failure to prosecute. The court has reviewed the  
and recommendation, Mr. Rubio's objections, the balance of the record, and the  
ning law. Being fully advised, the court DECLINES to adopt the report and

## ORDER - 1

1 recommendation and, instead, GRANTS Mr. Rubio additional time to file an amended  
 2 complaint.

3 The court mailed Mr. Rubio copies of its orders granting him leave to proceed *in*  
 4 *forma pauperis* (IFP Order (Dkt. # 6)) and declining service and granting leave to amend  
 5 (6/28/23 Order (Dkt. # 8)), but both orders were returned as undeliverable (*see* Notices  
 6 (Dkt. ## 9, 13). Mr. Rubio failed to provide a current mailing address within 60 days.  
 7 *See* Local Rules W.D. Wash. LCR 41(b)(2) (“A party proceeding *pro se* shall keep the  
 8 court and opposing parties advised as to his or her current mailing address,” and if mail is  
 9 returned as undeliverable, the plaintiff must provide a current mailing address “within 60  
 10 days” or risk dismissal). Accordingly, on September 11, 2023, Magistrate Judge  
 11 Vaughan recommended that Mr. Rubio’s action be dismissed without prejudice for  
 12 failure to prosecute. (R&R at 2.)

13 Mr. Rubio timely filed objections on September 25, 2023. (*See generally* Obj.)  
 14 Mr. Rubio stated that he “ha[s] been medically unavailable” and “apologize[d] to the  
 15 court for any deficiencies” in his complaint. (*Id.* at 1.)

16 The court is sympathetic to Mr. Rubio’s medical situation and trusts that he will  
 17 do his best “to prove to th[e] court that this case is meritorious.” (*Id.* at 3.) Mr. Rubio  
 18 may file an amended complaint that corrects the deficiencies outlined in Magistrate Judge  
 19 Vaughan’s order by no later than **November 1, 2023**. (*See* 6/28/23 Order.) If Mr. Rubio  
 20 fails to timely file an amended complaint, this action may be dismissed for failure to  
 21 prosecute.

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1 For the foregoing reasons, the court DECLINES to adopt Magistrate Judge  
2 Vaughan's report and recommendation (Dkt. # 12) and GRANTS Mr. Rubio additional  
3 time to file an amended complaint. The Clerk is DIRECTED to mail copies of the  
4 following documents to Mr. Rubio's address at the Mason County Jail: (1) this order  
5 (Dkt. # 15); (2) the IFP Order (Dkt. # 6); and (3) Magistrate Judge Vaughan's June 28,  
6 2023 Order (Dkt. # 8).

7 Dated this 2nd day of October, 2023.



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9 JAMES L. ROBART  
10 United States District Judge

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